

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated August 15, 2007 (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

With respect to the objection to Fig. 1, Applicant respectfully traverses. Contrary to the assertion that only that which is old is illustrated, the discussion of Fig. 1 beginning at page 5 of the Specification indicates that the device of Fig. 1 is not a “prior art” device. Rather, Fig. 1 illustrates at least one example embodiment of the invention, and therefore, should not be labeled as “prior art”. Applicant accordingly requests that the objection be removed.

With respect to the § 112 rejection of Claims 3, 8 and 9, the claims have been amended to provide explicit antecedent basis for the objected-to term. Accordingly, the rejection is believed to be overcome, and Applicant requests that the rejection be withdrawn.

Applicant respectfully traverses the § 103(a) rejection based upon the teachings of U.S. Patent No. 6,037,937 to Beaton *et al.* (hereinafter “Beaton”) as modified by the teachings of U.S. Patent No. 6,901,558 to Andreas *et al.* (hereinafter “Andreas”) because the asserted references alone, or in combination, do not teach or suggest each of the claimed limitations. More specifically, Beaton does not teach a floatable control area having a control block for changing the location of the floatable control area in a display area of an electronic device, as claimed in each of the independent claims. In contrast, Beaton’s navigation tool (asserted as corresponding to the claimed floatable control area) remains in the center of a device’s display as illustrated in Figs. 10A-C of Beaton. The Examiner’s reliance on the change in the text underlying the navigation tool (“by changing the underlying area of displayed text location of the navigation tool, the navigation tool location is indirectly changed”) is misplaced and fails to correspond to the claimed limitations in that such an assertion ignores the limitations directed to “changing the location of the floatable control area in a display area of the electronic device.” The fact that the location of

Beaton's navigation tool has changed within a displayed document does not correspond to the claimed changing location in a display area of an electronic device. For example, the assertion at page four that "[t]he location of the navigation tool changes to the right of the display when the right arrow is pressed" is incomplete as Beaton actually teaches that the location of the navigation tool in the displayed text changes to the right of the originally displayed text when the right arrow is pressed. The location changes of the navigation tool relate to the displayed text and not to the display area of the device, as claimed.

Applicant notes that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); and moreover, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *See, e.g.*, MPEP § 2143.03. The Examiner appears to have ignored certain claim limitations, which are not taught by either of the cited references. In addition to Beaton's failure to teach at least the above-discussed limitations, Andreas has also not been shown to teach or suggest any changing of location of a floatable control area. As neither of the asserted references teaches at least these limitations, any combination thereof must also fail to teach such limitations. Without a presentation of correspondence to each of the claimed limitations, the rejection is improper, and Applicant accordingly requests that the rejection be withdrawn.

Dependent Claims 2-9, 11-18 and 21 depend from independent Claims 1, 10, and 20, respectively. Each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed combination of Beaton and Andreas. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with the independent claims. These dependent claims include all of the limitations of their respective base claims and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim

depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 2-9, 11-18 and 21 are also patentable over the asserted combination of Beaton and Andreas.

Moreover, a skilled artisan would not be motivated to combine the cited teachings as asserted. As pointed out previously the assertion that a skilled artisan would modify Beaton’s navigation tool into a progress bar as taught by Andreas to provide the benefit of indicating the status of loading operation of a page in a non-obtrusive way is illogical since Beaton does not discuss any loading of pages such that a progress bar would be necessary. Rather, as Beaton teaches that a user may control the speed of navigation, the document being navigated would already be loaded (column 6, lines 11-24). The relied-upon portion of Beaton at columns 5-6 does not teach using the navigation tool during loading of a page and instead merely teaches that the navigation tool may be used to move a viewing window to the next page of a document. There is no indication that the page must be loaded in response to using the navigation tool in order to move to the page. Instead, the entire document appears to be already loaded so that the user may merely move to the next page instead of having to wait while the page loads to the device display, *e.g.*, a continuous touch provides for scrolling through succeeding pages of the underlying document (Beaton, column 6, lines 6-9). For at least the above reasons, the asserted motivation for modifying Beaton’s navigation tool does not exist in Beaton; therefore, it has not been shown that a skilled artisan would have modified Beaton as asserted.

The examiner must show some objective teaching leading to the asserted combination. *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Since Beaton does not teach that the navigation tool is used during loading of information, Beaton would have provided insufficient guidance for a skilled artisan having these references before him/her to make the combination suggested. Applicant respectfully maintains that the Examiner’s conclusion of obviousness is, instead, based on improper hindsight reasoning using knowledge gleaned only from Applicant’s disclosure. It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown and that this evidence be “clear and particular.” *In re Dembiczak*,

50 USPQ2d 1614, (Fed. Cir. 1999) (*citing Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985)). There is nothing in the references or what is in the ordinary skill in the art that would lead to combining the cited references as asserted – rather, the proffered motivation is made in hindsight. For at least the aforementioned reasons, Applicant respectfully submits that a case of *prima facie* obviousness has not been satisfied for lack of an articulated reasoning with some rational underpinning. Applicant accordingly requests that the rejection be withdrawn.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.033.A1) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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By: 

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